

**Michigan Supreme Court
State Court Administrative Office**
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M E M O R A N D U M

TO: Chief Judges
CC: Court Administrators, Court Clerks and Circuit Court Forms
Contact Persons

FROM: John D. Ferry, Jr.

DATE: December 7, 2000

RE:

1. Prisoner Condition Lawsuit Dismissal Orders (see attached new SCAO Administrative Memorandum 2000-10 which replaces SCAO Administrative Memorandum 2000-01)
2. Service of Process on Prisoners - New Form MC 273
3. Judgment of Sentence Form - Clarification regarding Form CC 219b

EFFECTIVE
DATE: Immediately

Please take note of the following items regarding criminal matters and/or prisoners in state correctional facilities:

1. **Prisoner Condition Lawsuit Dismissal Orders:** If a prison condition lawsuit dismissal is ordered by a judge and the prisoner's good time or disciplinary credit will be affected as provided by MCL 600.5513, judges should consult with their local Department of Corrections probation office who will assist them in determining the number of days that are available for revocation. The State Court Administrative Office is considering developing recommended guidelines to assist judges in determining appropriate conditions and amounts of revocation of good time or disciplinary credits. This information is included in section A.4.b. of revised SCAO Administrative Memorandum 2000-10. Please discard SCAO Administrative Memorandum 2000-01. Judges and court staff should note that copies of dismissal orders must be sent to the State Court Administrative Office.

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2. **Service of Process on Prisoners:** Department of Corrections representatives have indicated that staff in correctional facilities throughout the state will serve process on prisoners. This will provide for more uniform and efficient service and will eliminate the necessity of local law enforcement or other process servers to travel to correctional facilities for this purpose. The SCAO has developed the attached form (MC 273 - Personal Service on Prisoner and Affidavit) for use by courts in serving process.
3. **Judgment of Sentence:** Please note that Public Acts 220 and 221 of 2000 require judgments of sentence to specify whether the sentence shall run consecutively or concurrently with any other sentence that the prisoner is serving. If the judgment of sentence does not specify, the sentence shall be computed as if it is to be served concurrently. Section 1h of Public Act 220 requires the court to provide a copy of the judgment of sentence to the prosecuting attorney, the defendant and the defendant's counsel, and provides a mechanism for the prosecuting attorney or defendant to file an objection to the judgment of sentence on the issue of whether the sentence is to run consecutively to or concurrent with any other sentence the defendant is or will be serving. MCL 769.1h; MCL 791.264(3)

For certain offenses, subsection (4) of the Public Act 221 requires that the sentence shall be computed as if it is to be served consecutively, unless specified otherwise in the judgment of sentence. Those offenses include prison escapes or attempted escapes; jail escapes, escapes while awaiting exam, trial, arraignment, sentence, or transfer; possession of firearms during the commission or attempted commission of a felony; and a prisoner taking another prisoner hostage. MCL 791.264(4)

The Judgment of Sentence - Commitment to Corrections Department (SCAO Form CC 219b dated 6/98) is the current form that should be used by courts and will accommodate the new legislation. Please discard previous versions. Circuit Court Forms Contact Persons should disregard the previous instructions to use the prior version until the supply is depleted.

Please contact Patricia Corey Pulver at 517/373-7498 if you have any questions regarding this memo or the enclosure.

Attachments: SCAO Administrative Memorandum 2000-10
Form MC 273 (6/00) - Personal Service on Prisoner and Affidavit